



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 7, 1998

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-1590

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116433.

The City of McAllen (the "city") received a request for a specific offense report. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the submitted documents may have been filed with a court. Documents filed with the court are public documents and must be released. *See Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992).

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You inform this office that there is a pending investigation related to the subject of this request for information. Because the requested information relates to a pending criminal investigation, we conclude that the release of the requested information would interfere with the detection, investigation, or prosecution of crime and thus, it is excepted from disclosure under section 552.108(a)(1). *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for the front page information, the department may withhold the requested information from disclosure under section 552.108(a)(1). Although section 552.108 authorizes you to withhold the remaining requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

However, certain information in the information at issue is confidential under section 552.130. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

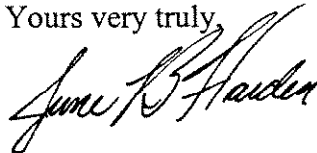
See Act of May 29, 1997, S.B. 1069, § 4, 75th Leg., R.S. (to be codified at Gov't Code § 552.130). Thus, you must withhold the driver's license number, VIN number, and the license plate number pursuant to section 552.130.

Lastly, the information at issue also contains social security numbers. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C.

§ 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the submitted documents are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Government Code on the basis of that federal provision. We caution, however, that section 552.353 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/cbh

Ref.: ID# 116433

Enclosures: Submitted documents

cc: Ms. Sonia Chapa
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(w/o enclosures)